



To the Honorable Council
City of Norfolk, Virginia

September 12, 2023

From: Paula Shea
Interim Planning Director

Subject: City Planning Commission - Zoning
Text Amendment

Reviewed:

Douglas Beaver, Acting Deputy
City Manager

Ward/Superward: Citywide

Approved:

Patrick Roberts, City Manager

Item Number: PH-01

- I. **Staff Recommendation:** Approval.
- II. **Planning Commission Recommendation:** By a vote of **6 to 1**, the Planning Commission recommends **Approval**.
- III. **Request:** Text amendments to modify definitions and performance standards for restaurants to allow for the sale of alcoholic beverages as a permitted accessory use depending on certain locational and/or operational limitations.
- IV. **Applicant:** City Planning Commission
- V. **Description:**
 - Restaurants without entertainment are presently required to obtain a Conditional Use Permit (CUP) to sell alcoholic beverages.
 - Between March 2018 and September 2022, restaurants without entertainment were permitted to sell alcoholic beverages without a CUP if they closed by 12:00 midnight Downtown or 11:00 p.m. elsewhere.
 - Staff was asked to evaluate whether an option for by-right alcoholic beverage sales could be re-established.
 - Based on an analysis of data including the closing times of existing restaurants selling alcohol without entertainment, staff recommended a by-right option for those closing by 10:00 p.m., citywide.

- At their July 27 public hearing, Planning Commission recommended a by-right option for those closing by 5:00 p.m., citywide, instead of the 10:00 p.m. recommended by staff.

Staff contact: Jeremy Sharp at (757) 439-4833, jeremy.sharp@norfolk.gov

Attachments:

- Staff Report to CPC dated July 27, 2023
- Ordinance

Proponents and Opponents

Proponents

None

Opponents

None

Supporting Material:

- Ordinance Exhibit A (PDF)
- Proposed Text - Restaurant ABC CPC Draft (PDF)



City Planning Commission Public Hearing: July 27, 2023

Acting Executive Secretary: Paula Shea, AICP

Handwritten signature of Paula M. Shea in black ink.

Staff Planner: Jeremy Sharp

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Staff Report		Item No
Applicant	City Planning Commission	
Request	Zoning Text Amendment	Text amendments to modify definitions and performance standards for restaurants to allow for the sale of alcoholic beverages as a permitted accessory use depending on certain locational and/or operational limitations.

A. Summary of Request

- Restaurants without entertainment are presently required to obtain a Conditional Use Permit (CUP) to sell alcoholic beverages.
- Staff was asked to evaluate whether an option for by-right alcoholic beverage sales could be established.
- The proposed amendments would establish a by-right option for alcoholic beverage sales for restaurants without entertainment closing by 10:00 p.m., citywide.

B. Plan Consistency

- The “Land Use Strategies” chapter of *plaNorfolk2030* includes an outcome calling for development regulations and practices that support a quality built and natural environment.
 - The proposed text amendments are intended to ensure that outcome can continue to be met, making the proposal consistent with *plaNorfolk2030*.

C. Analysis

- With the adoption of the *Zoning Ordinance* in 2018, the city began permitting restaurants operating without entertainment to sell alcoholic beverages without a CUP if they closed by 12:00 midnight Downtown or 11:00 p.m. elsewhere.
- In September 2022, the *Zoning Ordinance* was amended to require a CUP for restaurants to sell alcoholic beverages, regardless of operating hours.
- Staff was asked to research restaurant operations in the city and determine whether a by-right option for the sale of alcoholic beverages could be re-established with earlier closing hours than the 2018 regulations permitted.

- Suggested closing times centered on before dinner hour (3:00-5:00 p.m.) and after dinner hour (8:00-10:00 p.m.).
- Staff has performed an analysis of restaurants currently operating in Norfolk with alcohol sales and no entertainment. 83 restaurants were analyzed by capacity, location, and advertised closing hours.
 - Staff did not identify a clear pattern of closing hours varying by character district or building capacity.
 - Clear groupings did emerge around closing hours:
 - Four establishments (5% of the total) were identified that closed by 3:00 p.m.
 - Ten establishments (12% of the total, including those closing earlier) were identified that closed by 8:00 p.m.
 - 27 establishments (33%) closed by 9:00 p.m.
 - 51 establishments (61%) closed by 10:00 p.m.
- Based on the data collected, the profile of the restaurants closing within the different time windows, and an understanding of enforcement capabilities, staff feels that a closing time of 10:00 p.m. is appropriate. This would permit restaurants without entertainment to sell alcoholic beverages without a CUP if they closed by 10:00 p.m., citywide.
- If this amendment is adopted, restaurants that meet the established criteria will be required to obtain a zoning certificate to operate and will be subject to administrative revocation should violations occur.

D. Communication Outreach/Notification

- Legal notification was placed in *The Virginian-Pilot* on July 13 and 20.

E. Recommendation

Staff recommends that the Zoning Text Amendment request be **approved**.

Supporting Material:

- Ordinance Exhibit A (PDF)
- Proposed Text - Restaurant ABC CPC Draft (PDF)

Form and Correctness Approved: *BAP*

Contents Approved:



By: _____
Office of the City Attorney



By: _____
DEPT. Planning

NORFOLK, VIRGINIA

Ordinance No.

AN ORDINANCE TO AMEND SECTION 4.2.3.F(2) OF THE
NORFOLK ZONING ORDINANCE TO REVISE THE PERFORMANCE
STANDARDS FOR THE COMMERCIAL USE KNOWN AS "RESTAURANT"
SO AS TO ALLOW THE SALE OF ALCOHOLIC BEVERAGE FOR ON-
PREMISES CONSUMPTION AS AN ACCESSORY USE, BY RIGHT,
FOR ESTABLISHMENTS THAT CLOSE NO LATER THAN 5:00 P.M.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That section 4.2.3.F(2) of the Norfolk Zoning Ordinance, establishing definitions and standards applicable to Individual Eating and Drinking Uses, is hereby amended and reordained so as to allow the sale of alcoholic beverage for on-premises consumption as an accessory use, by right, for establishments that open no earlier than 7:00 a.m. and close no later than 5:00 p.m. on any day. The text shall read as set forth in "Exhibit A," attached hereto.

Section 2:- The Council hereby finds that this zoning amendment is required by public necessity, convenience, general welfare, or good zoning practice.

Section 3:- That this ordinance shall be in effect from the date of its adoption.

EXHIBITS:

Exhibit A - Text amendments to section 4.2.3.F (1 page)

EXHIBIT A

ARTICLE 4: PERFORMANCE STANDARDS

4.2 PERFORMANCE STANDARDS FOR PRINCIPAL USES

4.2.3. PERFORMANCE STANDARDS FOR ALL PRINCIPAL USES

F. STANDARDS SPECIFIC TO COMMERCIAL USES

(2) Definitions and Standards Applicable to Individual Eating and Drinking Uses

(f) Restaurant

An establishment whose function is the preparation and selling of unpackaged food and beverages to the customer in a ready-to-consume state, where the customer consumes these foods and beverages while seated at tables or counters primarily located within a building. The principal method of operation includes one or both of the following characteristics: (1) customers are normally provided with an individual menu and served their food and beverages by an employee of the restaurant at the same table or counter where the items are consumed; or (2) a cafeteria-type operation where food and beverages generally are consumed within the building.

(i) A Conditional Use Permit is required in the following circumstances:

- (A) In the Downtown character district, establishments operating between the hours of 12:00 a.m. and 2:00 a.m.
- (B) In the Coastal, Suburban, or Traditional character districts, for establishments operating between the hours of 11:00 p.m. and 2:00 a.m.
- (C) Where seats will not be provided for at least 80 percent of patrons.
- (D) When entertainment is provided.
- (E) When alcoholic beverages are sold, except for establishments that are always closed between 5:00 p.m. and 7:00 a.m. the following morning.

(ii) A food menu shall be provided at all times that alcohol is sold.

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